

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**SILAS WAYNE YOCUM, #323702,**

**Plaintiff,**

**V.**

**Case No. 2:22-cv-694-ECM-CWB**

**ALABAMA DEPARTMENT OF  
CORRECTIONS, et al.,**

## Defendants.

## RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff has named the Alabama Department of Corrections as a defendant to this action.

(Doc. 1). However, the Eleventh Amendment to the United States Constitution bars suits against a State and its agencies, regardless of the relief being sought:

“[T]he Eleventh Amendment prohibits federal courts from entertaining suits by private parties against States and their agencies [or employees].” *Alabama v. Pugh*, 438 U.S. 781, 781, 98 S.Ct. 3057, 57 L.Ed.2d 1114 (1978). There are two exceptions to this prohibition: where the state has waived its immunity or where Congress has abrogated that immunity. *Virginia Office for Prot. & Advocacy v. Stewart*, 563 U.S. 247, 131 S.Ct. 1632, 1637–38, 179 L.Ed.2d 675 (2011). “A State’s consent to suit must be ‘unequivocally expressed’ in the text of [a] relevant statute.” *Sossamon v. Texas*, 563 U.S. 277, 131 S.Ct. 1651, 1658, 179 L.Ed.2d 700 (2011) (quoting *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 98, 104 S.Ct. 900, 79 L.Ed.2d 67 (1984)). “Waiver may not be implied.” *Id.* Likewise, “Congress’ intent to abrogate the States’ immunity from suit must be obvious from ‘a clear legislative statement.’” *Seminole Tribe of Fla. v. Florida*, 517 U.S. 44, 55, 116 S.Ct. 1114, 134 L.Ed.2d 252 (1996) (quoting *Blatchford v. Native Vill. of Noatak*, 501 U.S. 775, 786, 111 S.Ct. 2578, 115 L.Ed.2d 686 (1991)).

*Selensky v. Alabama*, 619 F. App'x 846, 848–49 (11th Cir. 2015); *Papasan v. Allain*, 478 U.S. 265 (1986) (holding that unless the State of Alabama consents to suit or Congress rescinds its immunity, a plaintiff cannot proceed against the State or its agencies and that “[t]his bar exists whether the relief sought is legal or equitable.”). Such immunity expressly extends to § 1983

claims such as those being asserted in this case. *See, e.g., Holmes v. Hale*, 701 F. App'x 751, 753 (11th Cir. 2017) (“Alabama has not waived its Eleventh Amendment immunity in § 1983 cases, nor has Congress abated it.”) (citing *Carr v. City of Florence, Ala.*, 916 F.2d 1521, 1525 (11th Cir. 1990)).

As an agency of the State of Alabama, the Alabama Department of Corrections shares in the full scope of Eleventh Amendment immunity. *See Alabama v. Pugh*, 438 U.S. 781, 782 (1978) (“There can be no doubt, however, that suit against the State and its Board of Corrections is barred by the Eleventh Amendment, unless Alabama has consented to the filing of such a suit.”). Plaintiff’s claims against the Alabama Department of Corrections therefore are due to be dismissed pursuant to 28 U.S.C. § 1915A(b).<sup>1</sup>

Accordingly, the Magistrate Judge hereby RECOMMENDS as follows:

1. that Plaintiff’s claims against the Alabama Department of Corrections be DISMISSED with prejudice prior to service of process;
2. that the Alabama Department of Corrections be TERMINATED as a party;  
and
3. that this case be referred to the undersigned for additional proceedings.

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<sup>1</sup> Section 1915A provides for threshold review and, when appropriate, dismissal in actions brought by inmates against governmental entities:

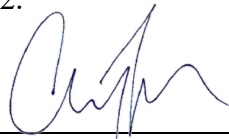
- (a) Screening.— The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.
- (b) Grounds for Dismissal.—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—
  - (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
  - (2) seeks monetary relief from a defendant who is immune from such relief.

28 U.S.C. § 1915A.

It is hereby **ORDERED** that any objections to this Recommendation must be filed by December 27, 2022. An objecting party must identify the specific portion of the factual findings or legal conclusions to which the objection is made and must describe in detail the basis for the objection. Frivolous, conclusive, or general objections will not be considered.

Failure to file a written objection to this Recommendation shall bar a party from a de novo determination by the District Court of any factual findings or legal conclusions contained herein and shall waive the right of the party to challenge on appeal any subsequent order that is based on factual findings and legal conclusions accepted or adopted by the District Court, except upon grounds of plain error or manifest injustice. 11th Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE this the 12th day of December 2022.

A handwritten signature in blue ink, appearing to read 'Chad W. Bryan', is written over a horizontal line.

**CHAD W. BRYAN**  
**UNITED STATES MAGISTRATE JUDGE**